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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/110,103	07/01/98	POWERS	M 019143.0272
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LM01/0417

EXAMINER

TEITELBAUM, A

ART UNIT

PAPER NUMBER

2765

DATE MAILED:

04/17/00

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trad marks

Office Action Summary

Application No.

09/110,103

Applicant(s)

POWERS ET AL.

Examiner

Anne H Teitelbaum

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- 1) ☒ Responsive to communication(s) filed on 01 July 1998.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some * c) ☐ None of the CERTIFIED copies of the priority documents have been:
1. ☐ received.
2. ☐ received in Application No. (Series Code / Serial Number) _____.
3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

- 14) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

Attachment(s)

- 14) ☒ Notice of References Cited (PTO-892)
- 15) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 16) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 476, 477
- 17) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 18) ☐ Notice of Informal Patent Application (PTO-152)
- 19) ☐ Other: _____

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DETAILED ACTION

1. Claims 1-8 have been examined.

Claim Objections

2. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. Misnumbered claims 6, 7, 8, 9 have been renumbered 5, 6, 7, 8. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with number 9, the number next following the highest numbered claims previously presented (whether entered or not).

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1-8 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claimed invention is a computer-related invention. The Computer-Implemented Invention Guidelines issued by the U.S. Patent and Trademark Office describe the procedures for examining such inventions.

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The claimed invention is a series of steps to be performed on a computer. However, the claims do not recite a computer implementation. They are therefore not within the technological arts and are unpatentable for this reason.

Assuming that the steps are performed on a computer, then claims 1-8 will be further analyzed as if they were a series of steps to be performed on a computer.

Claims 1-8 recite a series of steps to import a data file. There are no process steps performed by a computer (or a processor) that act upon the file to have a tangible, concrete and useful result. The claimed invention fails to positively recite any process that is performed by a computer to impart any functionality to the claimed elements. Thus claims 1-8 merely recite a process of importing data files.

In conclusion, claims 1-8 recite nonfunctional steps and are analyzed as nonstatutory subject matter under the examining guidelines (MPEP chapter 2100, section 2106 IV.B.1) issued by the U.S. Patent and Trademark Office.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

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6. Claims 1-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Havens (U.S. 5,909,669).

Claims 1-8: Havens discloses a system and method for generating a worker productivity assessment, which is equivalent to generating an evaluation in a performance evaluation system. Havens also discloses a method for importing a data file into the performance evaluation (or worker productivity assessment) system (col. 14, lines 28-34) comprising all the elements of the claimed invention as such methods are well known and cited in numerous other references that are cited in this office action. The Havens invention provides methodology to import a data file, such as storing a plurality of user-defined data elements (col. 14, lines 31-34) and storing a user-defined configuration for the data file, the configuration operable to identify a data item in the data file and to map the data item to a data element (col. 14, lines 36-43). Havens also discloses the configuration operable to associate the data item with a member of the performance evaluation system (col. 7, lines 28-34). The data file is a delimited file (col. 14, lines 40-43).

Claims 7 and 8 recite the limitations of claims 1 and 2 utilizing a database table (see abstract, lines 1-5) and are therefore rejected on the same analysis described above.

Conclusion

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7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- MILLER (U.S. 5,408,663), April 18, 1995, 'Resource Allocation Methods'.
- RICE et al (U.S. 5,788,504), Aug. 4, 1998, 'Computerized Training Management System'.
- UEDA (U.S. 5,692,179), Nov. 25, 1997, 'Information Retrieving Apparatus'.
- COLLINS et al (U.S. 5,577,919), Nov. 26, 1996, 'Method and Apparatus for Automated Learning and Performance Evaluation'.
- ABRAHAM et al (U.S. 5,539,906), July 23, 1996, 'Method and Apparatus for Controlling Access to Data Elements in a Data Processing System Based on Status of an Industrial Process'.
- COHEN-LEVY et al (U.S. 5,423,034), June 6, 1995, 'Network File Management with User Determined Hierarchical File Structures and Means for Intercepting Application Program Open and Save Commands for Inputting and Displaying User Inputted Descriptions of the Location and Content of Files'.
- JANIS (U.S. 5,263,157), Nov. 16, 1993, 'Method and System for Providing User Access Control Within A Distributed Data Processing System by the Exchange of Access Control Profiles'.


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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anne H Teitelbaum whose telephone number is 703-306-5679. The examiner can normally be reached on Monday-Thursday 7:30am-5:00pm and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allen MacDonald can be reached on 703-305-9708. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-9051 for regular communications and 703-308-5337 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

aht
April 10, 2000


ERIC W. STAMBER
PRIMARY EXAMINER